IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 21631 of 2005(A)

PETITIONERS:

1. **T.SREEKUMAR, UPPER DIVISION CLERK, D.B.PAMPA COLLEGE, PARUMALA.**
2. **G.SANTHOSH KUMAR, UPPER DIVISION CLERK, D.B.PAMPA COLLEGE, PARUMALA.**

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE TRAVANCORE DEVASWOM BOARD, THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.**
3. **THE MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR.**
4. **THE DEVASWOM BOARD PAMPA COLLEGE, PARUMALA, MANNAR, REPRESENTED BY ITS PRINCIPAL.**
5. **M.R.HARIDAS, HEAD ACCOUNTANT, D.B.COLLEGE, THALAYOLAPARAMBU.**
6. **V.PAVITHRAN, UPPER DIVISION CLERK, THALAYOLAPARAMBU.**
7. **B.S.VIJAYA MOHANAN THAMBI, UPPER DIVISION CLERK, THALAYOLAPARAMBU.**

BY ADV. SRI. T.A. SHAJI, SC, M.G.UNIVERSITY for R3
SRI.P.GOPAL for R5 & R6
SRI.R.KRISHNA RAJ for R7
SRI.P.PARAMESWARAN NAIR, SC, TDB for R2
SRI.K.N.VENUGOPALA PANICKER, SC, TDB
BY GOVERNMENT PLEADER SRI. NANDAKUMAR for R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.21631/2005 A

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF G.O.MS.119/04/H.EDN. DTD. 17/09/2004.**

EXT.P2: **COPY OF THE ORDER NO.ROC/6446/2005/C DTD. 04/07/2005 OF THE 2ND RESPONDENT.**

2ND RESPONDENT'S EXHIBIT:

EXT.R2(A): **COPY OF THE ORDER G.O.(MS) NO.146/05/HIGHER EDUCATION DTD. 30/09/05.**

/TRUE COPY/

P.A.TO JUDGE

KSS

ANTONY DOMINIC, J.
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W.P.(C) NO. 21631 OF 2005
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Dated this the 2nd day of August, 2007

J U D G M E N T

Two Non teaching staff presently working in the category of Upper Division Clerk in the Colleges of the 2nd respondent and aspiring for promotion to the post of Head Accountant and Junior Superintendent are the petitioners herein. According to them, for promotion to the aforesaid posts, by Ext.P1 order issued by the first respondent, Computer awareness has been made a mandatory qualification.

2. It is alleged that there were two vacancies in the aforesaid categories available under the Colleges of the Corporate Management of Travancore Devaswom Board which arose on 31/1/05 and 31/5/05 and the petitioners assert that they were the only two qualified candidates. It is stated that the additional prescription contained in Ext.P1 referred to above were withdrawn by Ext.R2(a) order dated 30/9/2005, but however the entitlement of promotion has to be determined with reference to the date of occurrence of vacancy. On this basis, it is contended that the

petitioners alone were the eligible candidates and they ought to have been accommodated in those vacancies.

3. The contesting respondents in this case are respondents 5, 6 and 7. On their behalf, it is contended that the Colleges under the 2nd respondent Corporate Management are affiliated to the 3rd respondent University and qualification for the Non teaching staff are those prescribed in the M.G.University Statutes of 1997. According to the learned counsel, for the post of Junior Superintendent and Head Accountant, the University Statute prescribed only SSLC or its equivalent examination with pass in Manual of Office Procedure and Account Test (Lower) conducted by the PSC. It is submitted that so long as the University Statutes have not been amended, prescription contained in Ext.P1 or its withdrawal by Ext.R2(a) are inconsequential. Counsel would submit that respondents 5, 6 and 7 satisfied the eligible conditions specified in the University Statutes and were accordingly promoted. According to the counsel, the 5th respondent was promoted as Junior Superintendent with effect from 01.02.2005 and respondents 6

and 7 were promoted as Head Accountant with effect from 1.2.2005 and 1.3.2005 respectively. It is also pointed out that the 6th respondent was thereafter promoted and posted as Junior Superintendent with effect from 1.4.2005.

4. It is true that normally eligibility for promotion has to be reckoned with effect from the date of occurrence of the vacancy. In so far as this case is concerned, it is admitted position that the Colleges in question are affiliated to the M.G.University and the eligibility conditions for promotion of Non teaching staff of the Colleges affiliated to that University are those contained in the University Statute. So long as respondents 5, 6 and 7 satisfied the prescriptions in the University Statutes, their promotion cannot be faulted. As far as Ext.P1 is concerned, true it prescribed certain additional qualifications but then unless and until the University Statutes are amended it is of no consequence in so far as the Non teaching staff of the University are concerned. For the same reason, the withdrawal of Ext.P1 by Ext.R2(a) is also of no consequence.

Thus, it is beyond controversy that respondents 5, 6 and 7

satisfied the eligibility conditions for promotion and they were rightly promoted and there is nothing invalidating their promotion. Writ petition therefore lacks merits and it is only to be dismissed and I do so.

ANTONY DOMINIC, JUDGE.

Rp